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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,349	08/01/2000	THOMAS F. TEDDER	180/95/PCT/U	1602

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EXAMINER

LI, QIAN J

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 11/04/2002 21

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/555,349

Applicant(s)

TEDDER, THOMAS F.

Examiner

Q. Janice Li

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 24 October 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 29 and 30.

Claim(s) objected to: _____.

Claim(s) rejected: 1,3-5 and 7.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ANNE M. WEHBE' PH.D
PRIMARY EXAMINER

Continuation of 2. NOTE: The newly amended claim 1 would necessitate new grounds of rejection under 35 USC 112, 1st & 2nd paragraphs..

Continuation of 5. does NOT place the application in condition for allowance because: The amended claim 1 if entered would overcome previous written description and the enablement rejection related to written description. However, it would necessitate new grounds of rejection under 35 USC 112, 1st paragraph. In the reply to the final Office action, applicants argue that techniques for preparing transgenic animals were known in the art at the time of filing the subject patent application, and provide a list of patents as evidence for methods of making various transgenic animals. The argument has been carefully considered but found not persuasive because even though the technique of making a transgenic animal has become routine, the phenotypes of the resulting animals are highly unpredictable as taught by Hammer et al, and Mullins et al, which are cited in papers #11 and 17. The cited patents could not be used as support for the instant claims because none of the cited patents disclose a transgenic animal that overexpressing CD19 and having a phenotype of antibody-producing cells that display disrupted peripheral tolerance. Therefore, the previous enablement rejection under 35 USC 112, 1st paragraph stands.